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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,152	09/26/2000	Sean M. Whitsell	7000-008	4838

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WITHROW & TERRANOVA, P.L.L.C.  
P.O. BOX 1287  
CARY, NC 27512

EXAMINER

BEAULIEU, YONEL

ART UNIT PAPER NUMBER

3661

DATE MAILED: 10/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/670,152

Applicant(s)

WHITSELL, SEAN M.

Examiner

Yonel Beaulieu

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-51 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 - 12, 15 - 25, 32 - 36, and 41 - 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Ando (US 6,615,134 B2).

Regarding claims 1, 20, 32, 41, and 51, Ando teaches determining if travel on a learned route by a first user and a second user is likely, requesting, through mobile terminals (5 and 6; fig. 1 at least), traffic information pertaining to the learned route when the route learned is likely and delivering configured traffic information via the mobile terminal to the user (figs. 1, 5, 7, 8, 10; col. 1: 6 – 11; col. 2: 46 – 56; col. 9: 6 –

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63; col. 23: 42 – 60 at least); the traffic information being provided by a traffic information server (remote item 3).

Regarding claims 2 - 12, 15 – 19, 21 – 25, 33 – 36, and 42 - 50, Ando teaches all of the limitations including the user learned route being determined if at least a current time corresponds to the at least travel time interval associated with the learned route and determining the location (using GPS) of the mobile terminals (col. 1: 28 – 33; col. 11: 58 – col. 12: 6 at least), including transferring the traffic information to an external system (7) accessible to the user (fig. 1 at least) and providing traffic information pertaining to alternate route in case of undesirable condition (col. 32: 45 – 61 at least) and at least one road segment (fig. 24); and one or more settings used to process the information (col. 39: 60 – 62; col. 40: 36 – 39).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 – 31 and 37 – 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando ('134 B2) in view of Nimura et al. (US 6,125,323).

As discussed above, Ando teaches all of the limitations except for the incorporation of a cellular telephone.

However, Nimura et al. teaches, in the same field of endeavor of determining learned route (col. 1: 6 – 12), utilizing a cellular telephone (col. 6: 8 – 21 at least).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Ando's teaching by incorporating a cellular telephone as evidenced by Nimura et al. in order to enhance learned travel route determination.

***Allowable Subject Matter***

Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


The prior art of record fail to suggest a method of route learning in a navigation system comprising processing data such that locations having a most frequent rate of occurrence in the data are identified and wherein the locations having the most frequent rate of occurrence are associated based upon a location value to form at least one group of associated locations and the location identification having a most frequent rate of occurrence in the data comprises using a weighted average algorithm.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. CUCHLINSKI can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Y. BEAULIEU  
  
YONEL BEAULIEU  
PRIMARY EXAMINER